

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

ROBERT H. KOONS, JR. and	:	
SALLY KOONS	:	
	:	
Plaintiffs,	:	
	:	
v.	:	CIVIL ACTION
	:	02-CV-2739
	:	
PIEDMONT HAWTHORNE AVIATION,	:	
HAWTHORNE A-B-E, INC.	:	
n/k/a HAWTHORNE AIRPORT	:	
SERVICES, INC., and PIEDMONT	:	
HAWTHORNE HOLDINGS, INC.	:	
Defendants.	:	

ORDER

AND NOW, this day of , 2003, upon consideration of Plaintiffs' Motion in Limine to Preclude Testimony of Undisclosed and/or Belatedly Disclosed Witnesses, and Defendants' response thereto, it is hereby ORDERED and DECREED that said Motion is Denied as Moot.

BY THE COURT:

HONORABLE MARY A. MCLAUGHLIN
UNITED STATES DISTRICT JUDGE

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n/k/a HAWTHORNE AIRPORT	:	
SERVICES, INC., and PIEDMONT	:	
HAWTHORNE HOLDINGS, INC.	:	
Defendants.	:	

**MEMORANDUM OF LAW IN SUPPORT OF DEFENDANTS' RESPONSE
TO PLAINTIFFS' MOTION IN LIMINE TO PRECLUDE TESTIMONY
OF UNDISCLOSED AND/OR BELATEDLY DISCLOSED WITNESSES**

Defendants, Piedmont Hawthorne Aviation, Hawthorne A-B-E, Inc. n/k/a Hawthorne Airport Services, Inc., and Piedmont Hawthorne Holdings, Inc. (hereinafter "Piedmont"), by and through their undersigned counsel, Cozen O'Connor, hereby respond to Plaintiffs' Motion in Limine to Preclude Testimony of Undisclosed and/or Belatedly Disclosed Witnesses.

On November 7, 2003, Defendants filed their Pre-Trial Memorandum and listed as witnesses Nate Askew and J.J. Defendants learned of the identify of these potential witnesses on November 7, 2003 and out of an abundance of caution, listed these individuals as potential witnesses at trial. Since then, however, Defendants have determined that these witnesses will not be called at trial and therefore, Plaintiffs' motion with respect to Nate Askew and J.J. is moot.

During the trial deposition of Airport Director Bradley Whited on November 12, 2003, Plaintiffs produced for the first time an email concerning the amount of fuel allegedly recovered from the aircraft after the crash. Upon learning of this new information, Defendants' investigator contacted Atlanta Air Salvage, which was involved in the recovery of the aircraft,

and was given the name of a potential witness, Steven Poss. Defendants' counsel has since had the opportunity to speak to Mr. Poss and has determined that he does not have a recollection of the recovery of Mr. Koons' aircraft. Therefore, Defendants will not be calling Mr. Poss as a witness at trial.

For all these reasons, Defendants respectfully request that Plaintiffs' Motion in Limine to Preclude Testimony of Undisclosed and/or Belatedly Disclosed Witnesses be denied as moot.

Respectfully submitted,

COZEN O'CONNOR

BY: _____
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Attorneys for Defendants

Date:

CERTIFICATE OF SERVICE

I, Sara Anderson Frey, Esquire hereby certify that a true and correct copy of Defendants' Response to Plaintiffs' Motion In Limine was served this ____ day of _____, 2003 by first class mail, postage prepaid, upon the following:

Arthur Wolk, Esquire
WOLK & GENTER
1710-12 Locust Street
Philadelphia, PA 19103

Sara Anderson Frey, Esquire